

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

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U.S. DISTRICT COURT
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**COMMONWEALTH SCIENTIFIC AND
INDUSTRIAL RESEARCH
ORGANISATION**

Plaintiff,

vs.

**BUFFALO TECHNOLOGY (USA), INC., a
Delaware corporation, and BUFFALO INC.,
a Japanese corporation**

Defendants.

Civil Action No. **2-05 CV-53 LED**

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff Commonwealth Scientific and Industrial Research Organisation ("CSIRO") for its Complaint against Defendant Buffalo Technology (USA), Inc. alleges:

THE PARTIES

1. CSIRO is one of the largest and most diverse scientific research institutions in the world, and has a principal place of business at Limestone Avenue, Campbell ACT 2612, Australia.

2. CSIRO is informed and believes, and on that basis alleges, that Defendant Buffalo Technology (USA), Inc. is a Delaware corporation with its principal place of business at 4030 West Braker Lane, Suite 120, Austin, Texas 78759.

3. CSIRO is informed and believes, and on that basis alleges, that Defendant Buffalo Inc. (collectively with Buffalo Technology (USA), Inc., "Buffalo") is organized under the laws of Japan with its principal place of business in Nagoya, Japan. Buffalo Inc. does business in the United States, specifically, in the Eastern District of Texas through Buffalo Technology (USA),

Inc., Buffalo Inc. and Buffalo Technology (USA) are commonly owned by the same corporate entity and are alter egos of one another.

JURISDICTION AND VENUE

4. The court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§1 *et seq*. Venue is proper in this federal district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) in that Buffalo has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling CSIRO to relief.

INFRINGEMENT OF U.S. PATENT NO. 5,487,069

5. On January 23, 1996, United States Patent No. 5,487,069 (the "'069 patent") was duly and legally issued for inventions entitled "Wireless LAN." CSIRO holds all rights and interest in the '069 patent. A true and correct copy of the '069 patent is attached hereto as Exhibit A.

6. Upon information and belief, Buffalo has infringed and continues to infringe the '069 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Network Interface Cards (NIC), Access Points (AP), and other products practicing the IEEE 802.11a and/or 802.11g standards; and inducement of others to manufacture, use, sell, import, and/or offer for sale of such NICs and APs and other products practicing the IEEE 802.11a and/or 802.11g standards. Buffalo is liable for infringement of the '069 patent pursuant to 35 U.S.C. § 271.

7. Buffalo's acts of infringement have caused damage to CSIRO and CSIRO is entitled to recover from Buffalo the damages sustained by CSIRO as a result of Buffalo's wrongful acts in an amount subject to proof at trial. Buffalo's infringement of CSIRO's exclusive rights under the '069 patent will continue to damage CSIRO, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

8. Upon information and belief, Buffalo has knowledge of its infringement of the '069 patent, yet Buffalo continues to infringe said patent. Buffalo's infringement of the '069

patent is willful and deliberate, entitling CSIRO to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

9. CSIRO hereby demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CSIRO requests entry of judgment in its favor and against Buffalo as follows:

- a) Declaration that Buffalo has infringed U.S. Patent No. 5,487,069;
- b) Permanently enjoining Buffalo, its officers, agents, employees, and those acting in privity with them, from further infringement, contributory infringement and/or inducing infringement of U.S. Patent No. 5,487,069;
- c) Awarding the damages arising out of Buffalo's infringement of U.S. Patent No. 5,487,069, including enhanced damages pursuant to 35 U.S.C. § 284, to CSIRO, together with prejudgment and post-judgment interest, in an amount according to proof;
- d) An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and
- e) For such other costs and further relief as the Court may deem just and proper.

DATED: February 2, 2005 Respectfully submitted,

By: S. Calvin Capshaw
S. Calvin Capshaw
State Bar No. 03783900
BROWN McCARROLL LLP
1127 Judson Road, Suite 220,
P.O. Box 3999
Longview, Texas 75601-5157
Telephone: (903) 236-9800
Facsimile: (903) 236-8787
E-mail: ccapshaw@mailbmc.com

Otis W. Carroll
State Bar No. 03895700)

Ireland, Carroll & Kelley, P.C.
6101 South Broadway, Suite 500
P.O. Box 7879
Tyler, TX 75711
Telephone: (903) 561-1600
Facsimile: (903) 561-1071
Email: nancy@icklaw.com

Franklin Jones, Jr. (State Bar No. 00000055)
Jones and Jones, Inc., P.C.
201 West Houston Street
P.O. Drawer 1249
Marshall, TX 75671-1249
Telephone: (903) 938-4395
Facsimile: (903) 938-3360
Email: maizieh@millerfirm.com

Daniel J. Furniss
CA State Bar No. 73531
djf@townsend.com
Byron W. Cooper
CA State Bar No. 166578
bwc@townsend.com
Gary H. Ritchey
ghritchey@townsend.com
CA State Bar No. 136209
Gregory S. Bishop
CA State Bar No. 184680
gsbishop@townsend.com
Thomas F. Fitzpatrick
CA State Bar No. 193565
tffitzpatrick@townsend.com
Marie C. Seibel
CA State Bar No. 221014
mcseibel@townsend.com

TOWNSEND AND TOWNSEND AND CREW LLP
379 Lytton Avenue
Palo Alto, CA 94301
Telephone: (650) 326-2400
Facsimile: (650) 326-2422

Attorneys for Plaintiff
COMMONWEALTH SCIENTIFIC AND
INDUSTRIAL RESEARCH ORGANISATION

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